

## **EXHIBIT 1**

Si ms. txt

1

1 ROUGH DRAFT DEPOSITION  
2 OF NATHANIEL M. SIMS.  
08:52:47 3  
4 DIRECT EXAMINATION  
09:16:28 5 BY MR. LENNON:  
09:16:28 6 Q. Doctor Sims, could you please state your  
09:16:32 7 full name for the records?  
09:16:33 8 A. Nathan Merri man Sims.  
09:16:35 9 Q. Okay. Doctor Sims, you understand that  
09:16:38 10 you're here to testify as a technical expert  
09:16:41 11 on behalf of Radi anse?  
09:16:42 12 A. That's correct.  
09:16:43 13 Q. And that you'll be providing opinion  
09:16:47 14 testimony as well as fact testimony for  
09:16:49 15 Radi anse?  
09:16:50 16 A. That's correct.  
09:16:50 17 Q. Have you ever been deposed before?  
09:16:53 18 A. Yes, I have.  
09:16:53 19 Q. How many times have you been deposed before?  
09:16:56 20 A. I believe only once.  
09:16:57 21 Q. And what was the matter?  
09:17:02 22 A. It was approximately ten years ago. It was  
09:17:04 23 in connection with a medical malpractice  
09:17:08 24 suit. I was a technical expert for one of  
09:17:13 25 the parties.

ALDERSON REPORTING

□

2

09:17:14 1 Q. Can you just say generally what the  
09:17:18 2 technical area was that you were?

Si ms. txt

□

127

14: 13: 56 1 A. It feels like you're putting words in my  
 14: 13: 59 2 mouth that don't seem relevant to the topic,  
 14: 14: 04 3 so it's hard for me to engage with your  
 14: 14: 06 4 question in providing a yes or a no to what  
 14: 14: 14 5 you're adding to what's already been written  
 14: 14: 16 6 which I, in my opinion, as an expert is  
 14: 14: 20 7 clear.

14: 14: 20 8 Q. Okay, so just to make it clear, he's not  
 14: 14: 23 9 giving an answer on the record. Let's just  
 14: 14: 27 10 move on through.

14: 14: 39 11 MR. REPPERT: Let me just say that  
 14: 14: 41 12 he has given answers to every question.  
 14: 14: 43 13 He's been asked substantively in the  
 14: 14: 45 14 questions he's been asked about ten times or  
 14: 14: 47 15 fifteen times the same questions and he's  
 14: 14: 52 16 given the same answer.

14: 14: 53 17 Q. Now you asserted that you and doctor Welch  
 14: 14: 58 18 conceived of the inventions claimed in the  
 14: 15: 02 19 363 patent prior to the filing of the 791  
 14: 15: 07 20 patent, is that correct?

14: 15: 10 21 A. Yes, we have asserted that we can swear  
 14: 15: 15 22 behind our own filing date relative to the  
 14: 15: 20 23 due diligence of the work that was required  
 14: 15: 27 24 to -- before the patent was filed.

14: 15: 31 25 Q. Do you plan to produce any additional

ALDERSON REPORTING

□

128

14: 15: 33 1 documents to corroborate your assertion that  
 14: 15: 36 2 you would conceived of this invention prior

Si ms. txt

14: 15: 38 3 to the filing of the 791 patent?  
 14: 15: 47 4 A. We could.  
 14: 15: 47 5 Q. Currently do you have any plans to do so?  
 14: 15: 47 6 A. They would be responsive to some sense of  
 14: 15: 49 7 need to do so.  
 14: 15: 49 8 Q. Do you know of any plan right as we speak  
 14: 15: 53 9 right now to -- for you to further produce  
 14: 15: 56 10 documents?  
 14: 15: 56 11 A. Nobody has asked me to further produce  
 14: 15: 59 12 documents, but as with any massive project,  
 14: 16: 07 13 there's almost -- there's a very large  
 14: 16: 10 14 number of documents that could be produced  
 14: 16: 18 15 and I wouldn't hesitate to do so, you know,  
 14: 16: 21 16 should circumstances require it. Bare in  
 14: 16: 29 17 mind there's an entire file history at fish  
 14: 16: 34 18 and Richardson. There's an entire history  
 14: 16: 36 19 at Mass. General and all of the documents  
 14: 16: 38 20 that I've produced are from my own personal  
 14: 16: 41 21 files, so we haven't even begun to ask for  
 14: 16: 46 22 the institutional files on the project.  
 14: 16: 47 23 Q. You haven't asked for anything in that  
 14: 16: 49 24 capacity?  
 14: 16: 50 25 A. I did make one request.

ALDERSON REPORTING

□

129

14: 16: 53 1 Q. When was that?  
 14: 16: 55 2 A. I don't remember.  
 14: 16: 55 3 Q. Was it within the last month?  
 14: 17: 00 4 A. No, I suspect it was a little before that.  
 14: 17: 03 5 Q. Was it within the last two months?